**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**ORDINARY ORIGINAL CIVIL JURISDICTION**

**APPEAL NO. 773 OF 2006**
**IN**
**CHAMBER SUMMONS NO. 661 OF 2004**
**IN**
**SUIT NO. 781 OF 1987**

Union Bank of India ] .. Appellants (Ori.Plaintiffs)

Versus

1. Roshan Enterprises & 2 ors. ] .. Respondents (Ori.Defendants)

Mr. Subodh Joshi i/b M/s. Lokhandwala & Co. for the appellants.

**CORAM: R.M. LODHA, &**
**S.A. BOBDE, JJ.**

**DATED: 06TH NOVEMBER, 2006**

**P.C. :**

. We heard the counsel for the appellant and perused the impugned order and the available material.

2. By Consent Terms dated 20th December, 1989 the Suit filed by the present appellants against the present respondents came to be decreed in terms of prayer clauses (a), (b), (c) and (k) of the Plaint. The Consent Terms provided that the present respondents shall pay the appellants the decretal amount on or before 30th June, 1990 and in the event of the present

respondents failing to pay the decretal amount by that date, the appellants shall be at liberty to execute the decree for the decretal amount remaining balance due and payable, and in that event, the Court Receiver, High Court, Bombay shall stand appointed Receiver of the Suit property in execution and shall have all the powers under Order XL, Rule 1 of the Code of Civil Procedure, including the power to sell. The respondents defaulted in paying the decretal amount as per the Consent Terms and, accordingly, Court Receiver stood appointed. It appears that the Court Receiver submitted the Report on 26th August, 2002. We are informed that on the said Report, after hearing the parties, the learned single Judge discharged the Court Receiver on 25th September, 2002.

3. The present appellants took out Chamber Summons being Chamber Summons No.661 of 2004 for recalling and setting aside the order dated 25th September, 2002 which came to be dismissed by the impugned order dated 19th December, 2005.

4. Upon perusal of the Affidavit in support of the Chamber Summons, it cannot be said that the appellant sought review of the order dated 25th September, 2002. The Affidavit in support of the

Chamber Summons does not set out any ground indicating that any error or mistake apparent on the face of the record was committed by the learned single Judge while passing the order dated 25th September, 2002. The party in whose presence the order is passed, if aggrieved by such order, must challenge that order in Appeal which admittedly was not done. The other remedy could have been by making application for review. The Chamber Summons does not show that it was an application for review. In the circumstances, the dismissal of the Chamber Summons by the learned single Judge cannot be faulted.

. Appeal does not deserve to be admitted and is dismissed in limine.

Sd/-
**[R.M. LODHA, J.]**

Sd/-
**[S.A. BOBDE, J.]**